

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

JERRY PINKS,	)	
	)	
Individually and on behalf of	)	No.: 1:13-cv-1730-LAK-RLE
similarly situated,	)	
	)	
Plaintiffs,	)	
	)	
-against-	)	<b>SECOND AMENDED NOTICE OF MOTION</b>
	)	<b>FOR CLASS CERTIFICATION</b>
M & T BANK CORP.,	)	
	)	
Defendant.	)	

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PLEASE TAKE NOTICE that, upon the supporting Declaration of Frederick M. Corley, Esq., and all of the pleadings and proceedings heretofore had herein, including but not limited to the parties' prior submissions on the instant motion as initially filed and as amended, Plaintiff Jerry Pinks will move this Court, at the United States Courthouse, 500 Pearl Street, New York, New York 10007, as soon as counsel may be heard, for an Order,

- Pursuant to Fed.R.Civ.P. 23, certifying the following class:

Consumer obligors with mailing addresses in the "Class Jurisdictions" (Connecticut, Delaware, District of Columbia, Florida, Georgia, Kentucky, Maine, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Texas, Vermont, Virginia, West Virginia) when M&T Bank Corp., M&T Credit Services, LLC, or persons or entities acting on their behalf (collectively, "Defendants"), sent them a Notification of Disposition in the form of Exhibit 2 to the Complaint (the "Pinks Notice"), prior to the disposition of collateral, where the date of the Pinks Notice and the disposition occurred during the "Class Period," which shall be from March 4, 2011, in the State of Virginia, and from March 14, 2010, in all other Class Jurisdictions (except persons expressly excluded from the Class as set forth below).

Excluded from the Class are:

1. All persons who, prior to certification of this class, retained counsel and filed suit against Defendants in connection with its failure to comply with the UCC's notification of disposition provisions, but only as to that failure.

2. Defendants, any partner, subsidiary, affiliate, or controlled person of Defendants, its officers, directors, agents, servants or employees and the immediate families of such persons.
  3. All persons who, with respect to a claim, have given Defendants a valid release of any claim which is at issue in this action.
  4. All persons who, after default, have signed a statement in conformity with UCC §9-602 and 9-624(c) renouncing or modifying the right to be sent notification of disposition of their collateral in compliance with UCC §9-613 and 9-614, but only as to notification of that disposition.
  5. All persons who, after disposition of their collateral, filed for bankruptcy and were thereafter discharged in bankruptcy but did not schedule their UCC claim that is the subject of this action as an asset of the bankruptcy estate.
  6. All persons against whom Defendants filed suit prior to March 14, 2013, seeking to collect a deficiency balance in connection with an account giving rise to a notification of disposition claim that is the subject of this Action, and where such collateral action has been reduced to judgment or is ongoing, but only as to that account.
- Pursuant to Fed.R.Civ.P. 23, appointing Plaintiff Jerry Pinks as class representative and Plaintiff's Counsel as Class Counsel,
  - Directing the expeditious production by M&T of documents and information of the type produced with respect to South Carolina, and such other and further relief as the Court deems just and proper.

This notice supersedes the Amended Notice of Motion filed July 21, 2016 (DI 169).

May 5, 2017

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